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Attorneys for Plaintiff

**IN THE UNITED STATES DISTRICT COURT**  
**IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA**

MARVIN McENTIRE,	)	No. C 05-4156 MMC
Plaintiff,	)	
vs.	)	STIPULATION AND ORDER OF
	)	DISMISSAL AND REMAND TO STATE
ASBESTOS DEFENDANTS, et al.,	)	COURT
Defendants.	)	

WHEREAS:

1. This case was originally filed in the Superior Court of California for the County of San Francisco; and
2. Defendant ATK Aerospace Company, Inc., now known as ATK Thiokol, Inc., filed its Notice of Removal on October 13, 2005, alleging that this Court has removal jurisdiction pursuant to the federal officer removal statute, 28 U.S.C. §1442(a)(1), on the ground that it was acting under the direction of agencies and officers of the United States government in committing the acts that Plaintiff complains of; and
3. The removal by defendant ATK Thiokol, Inc. did not require the consent of other party defendants and no consent or joinder in the removal was submitted to the Court; and

///

1 4. The parties have agreed to and do hereby stipulate that defendant ATK Thiokol, Inc.  
2 should be dismissed with prejudice from the above entitled action, pursuant to FRCP 41(a)(2), each  
3 party to bear its own costs;

4 IT IS HEREBY STIPULATED by and between the parties to this action through their  
5 designated counsel, that because no basis currently exists for this Court to exercise jurisdiction over  
6 this action, remand to the Superior Court of California for the County of San Francisco is appropriate.

7 Accordingly, the parties petition this Court for an order dismissing defendant ATK Thiokol,  
8 Inc. with prejudice from this action, and remanding the action to the Superior Court of California for  
9 the County of San Francisco.

10 Dated: November 1, 2005

BRAYTON❖PURCELL LLP

11  
12 By: /s/  
13 Nancy B. Thorington  
Attorneys for Plaintiff

14 REED SMITH LLP

15  
16 By: /s/  
17 Pavel Ekmekchyan  
Attorneys for Defendant  
18 ATK Aerospace Company, Inc., now known as  
19 ATK Thiokol, Inc.

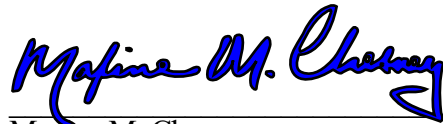
**ORDER DISMISSING DEFENDANT AND REMANDING CASE TO STATE COURT**

Having considered the stipulation between the plaintiff and the sole removing party, and good cause appearing:

IT IS HEREBY ORDERED that the sole removing defendant, ATK Aerospace Company, Inc., now known as ATK Thiokol, Inc., is dismissed with prejudice from this action pursuant to FRCP 41(a)(2), each party to bear its own costs; and

IT IS FURTHER ORDERED THAT the sole removing defendant having been dismissed from the case, no basis currently exists for removal of this action from the Superior Court of California for the County of San Francisco, and this matter should be and is, therefore, remanded to that court immediately.

Dated: November 2, 2005



Maxine M. Chesney,  
United States District Judge